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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/489,143

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William J. Baer

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EXAMINER

BASHORE, WILLIAM L

ART UNIT

PAPER NUMBER

2176

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/489,143

Applicant(s)

BAER ET AL.

Examiner

William L. Bashore

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: amendment filed 2/27/2006, to the original application filed 1/21/2000.
2. Claims 1-27 pending. Claims 1, 9, and 17 are independent.
3. It is noted that two independent sets of art rejections are applied to the pending claims, first set begins on page 2 (paragraph 5) of the present action, second set begins on page 8 (paragraph 10) of the present action.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 9-10, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa et al. (hereinafter Yonezawa), U.S. Patent No. 5,905,973 filed 9/29/1997, issued 5/18/1999.

In regard to independent claim 1, Yonezawa teaches an online shopping system utilizing an electronic shopping basket titled "Contents of shopping basket", which can be fairly interpreted as a content object (claim 1 "a content object"), the contents of said basket showing a plurality of selected flower items (claim 1 "a plurality of content entities"), said basket also showing total payment for the items in said basket (claim 1 "a price for the content object") (Yonezawa Abstract, Figure 4). It is noted that Yonezawa's total payment indicated in Figure 4 results from the multiplication of sub-item numbers (Figure 4 item 408) with unit prices (Figure 4 item 406), resulting in sub-totals added accordingly (Figure 4 item 410).

Yonezawa does not specifically disclose that the price (Yonezawa's total payment) is determined from a "content count". However, Yonezawa's teaches in column 5 lines 23-25 that numeral 412 (total payment) "denotes a total pay amount for all items", providing reasonable suggestion to one of ordinary skill in the art at the time of the invention that Yonezawa's "all items" (corresponding to claim 1 "*content count*") is used by Yonezawa to determine (via the processing of sub-item numbers with unit pricing in Yonezawa Figure 4) to achieve a total payment price for the content object. It is further noted that Yonezawa Figure 4 item 408 reflects sub-item numbers, which when added together form a total count of all items selected. Displaying the shopping basket with processed sub-item numbers, unit pricing, sub-totals, and total payment, provides the user the benefit of visually checking a purchase accordingly.

In regard to dependent claim 2, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4), with numbers in item 408 reflecting the subtotals of the total content count for the shopping basket (see also Yonezawa's column 5 lines 23-25).

In regard to claims 9, 10, claims 9, 10 reflect the computer program product comprising computer executable instructions used for performing the methods as claimed in claims 1, 2 respectively, and are rejected along the same rationale.

In regard to claims 17, 18, claims 17, 18 reflect the system comprising computer executable instructions used for performing the methods as claimed in claims 1, 2 respectively, and are rejected along the same rationale.

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6. **Claims 3-6, 11-14, 19-22, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa, in view of Dedrick (hereinafter Dedrick), US 5,768,521 patented 6/16/1998.**

In regard to dependent claim 3, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa does not specifically teach character counts for the entities. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Although Dedrick does not specifically mention a character count, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a character count will correlate exactly in proportion to the size of the content entity. Each additional character contained in the content entity will increase the representative byte count by the same unit amount that a character count would increase. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have applied Dedrick's byte/character count to Yonezawa's shopping basket, providing Yonezawa the benefit of an alternative way of purchasing an item that is priced based upon character counts (i.e. custom greeting cards, embossing name plates, etc.).

Regarding dependent claim 4, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa does not specifically teach determining page counts from character counts for the entities. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Determining a page count from the character count is merely changing the units of the count from characters to pages. Dedrick teaches an information unit count of bytes in col. 4 lines 63-64 and megabytes in col. 5 lines 21-23. The two example units of Dedrick are related exactly as the characters and pages of the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied

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Dedrick to Yonezawa, providing Yonezawa the benefit of converting characters into pages so that the cost computation would have been simplified.

In regard to dependent claim 5, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa also teaches determining content entity type (Yonezawa Figure 4 item 402, 404). Yonezawa does not specifically teach counting characters, and averaging from the entity. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Although Dedrick does not specifically mention that the unit of information is a character count. However, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a character count will correlate exactly in proportion to the size of the content entity. Each additional character contained in the content entity will increase the representative byte count by the same unit amount that a character count would increase. Dedrick teaches counting the number of bytes in a content entity, and determining an average character count for content entities of that type in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Dedrick to Yonezawa, providing Yonezawa the benefit of displaying extra information for a more informed decision.

In Regard to dependent claim 6, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa also teaches determining content entity type (Yonezawa Figure 4 item 402, 404), as well as a unit price (price per item) (Yonezawa Figure 4 item 406). Yonezawa does not specifically teach multiplying page counts. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches multiplying the page count with a predetermined price per page in col. 1 line

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62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Dedrick to Yonezawa, providing Yonezawa the benefit of displaying page counts within the shopping basket for a more informed decision, based upon items that are priced according to page counts.

In regard to dependent claims 11-14, claims 11-14 reflect the computer program product comprising computer executable instructions used for performing the methods as claimed in claims 3-6 respectively, and are rejected along the same rationale.

In regard to claims 19-22, claims 19-22 reflect the system comprising computer executable instructions used for performing the methods as claimed in claims 3-6 respectively, and are rejected along the same rationale.

In Regard to dependent claims 25, 26, and 27, Yonezawa does not specifically teach user provided content, nor does Yonezawa teach separate tally of user provided content. However, Dedrick teaches wherein the content object comprises electronic text, audio, video, graphics, animation or other electronic information in col. 4 lines 26-51. An electronic book is a composition of electronic information as is described by Dedrick. Dedrick teaches wherein the electronic information content entity is interactively created by the end user in col. 4 lines 39-51. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Dedrick to Yonezawa, providing Yonezawa the benefit of enabling an end user to interactively create an electronic book by selecting from a plurality of electronic information content entities. Since Yonezawa itemizes each content item accordingly (Yonezawa Figure 4), Dedrick's item can be added and separately tallied accordingly, and displaying the shopping basket would aid in the decision making process.

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7. **Claims 7, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa, in view of Khan et al. (hereinafter Khan), US 6,199,054 B1 filed 3/5/1998.**

Regarding dependent claim 7, Yonezawa does not teach that at least one of the content entities comprises user provided content. However, Khan teaches wherein a user may selectively add a user-provided content entity subject to price metering in col. 3 lines 61-64. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the user-provided content teaching of Khan to Yonezawa. It would have been obvious and desirable to have allowed the user to have provided content to further customize the interactive selection of content entities composing the content object, and displayed in Yonezawa's shopping basket.

In regard to dependent claim 15, claim 15 reflects the computer program product comprising computer executable instructions used for performing the method as claimed in claim 7, and is rejected along the same rationale.

In regard to dependent claim 23, claim 23 reflects the system comprising computer executable instructions used for performing the method as claimed in claim 7, and is rejected along the same rationale.

8. **Claims 8, 16, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa, in view of Khan, and further in view of Detrick.**

Regarding dependent claim 8, Yonezawa does not specifically teach defining a price when exceeding predefined content maximum, etc. However, Dedrick teaches wherein the price for user-provided material is determined in a first manner if the content count exceeds a predetermined content count maximum, and is

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determined in a second manner if the content count does not exceed the predefined maximum in col. 5 lines 23-25. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Dedrick to Yonezawa, providing Yonezawa the benefit of a more detailed price analysis added to Yonezawa's shopping basket.

In regard to dependent claim 16, claim 16 reflects the computer program product comprising computer executable instructions used for performing the method as claimed in claim 8, and is rejected along the same rationale.

In regard to dependent claim 24, claim 24 reflects the system comprising computer executable instructions used for performing the method as claimed in claim 8, and is rejected along the same rationale.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 1-2, 9-10, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Dedrick (hereinafter Dedrick), US 5,768,521 patented 6/16/1998.**

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Regarding independent claims 1, 9, and 17, Dedrick discloses determining (generating) a content count for a content object and determining (generating) from the content object count a price for the content object in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43.

Regarding dependent claims 2, 10, and 18, Dedrick discloses determining a content count for each content entity, and summing the entity content counts to obtain a content count for the content object in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 3-6, 11-14, 19-22, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dedrick.**

Regarding dependent claims 3, 11, and 19, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a character count. However, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a character count will correlate exactly in proportion to the size of the content entity. Each additional character

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contained in the content entity will increase the representative byte count by the same unit amount that a character count would increase. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dedrick to have used a character for the content entity.

Regarding dependent daims 4, 12, and 20, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a character count. However, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a character count will correlate exactly in proportion to the size of the content entity. Each additional character contained in the content entity will increase the representative byte count by the same unit amount that a character count would increase.

Determining a page count from the character count is merely changing the units of the count from characters to pages. Dedrick teaches a information unit count of bytes in col. 4 lines 63-64 and megabytes in col. 5 lines 21-23. The two example units of Dedrick are related exactly as the characters and pages of the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dedrick to have converted characters into pages so that the cost computation could have been simplified.

Regarding dependent claims 5, 13, and 21, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a character count. However, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a character count will correlate exactly in proportion to the size of the content entity. Each additional character

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contained in the content entity will increase the representative byte count by the same unit amount that a character count would increase. Dedrick teaches counting the number of bytes in a content entity, determining the content entity type, and determining an average character count for content entities of that type in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43.

Regarding dependent claims 6, 14, and 22, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a page count. However, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a page count will correlate exactly in proportion to the size of the content entity. Each additional page contained in the content entity will increase the representative byte count by the same unit amount that a page count would increase. Dedrick teaches multiplying the page count with a predetermined price per page in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43.

Regarding dependent claims 25, 26, and 27, Dedrick teaches wherein the content object comprises electronic text, audio, video, graphics, animation or other electronic information in col. 4 lines 26-51. An electronic book is a composition of electronic. Information as is described by Dedrick. Dedrick teaches wherein the electronic information content entity is interactively created by the end user in col. 4 lines 39-51. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dedrick to have enabled an end user to have interactively created an electronic book by selecting from a plurality of electronic information content entities so that the user could have had a customized electronic book.

13. **Claims 7-8, 15-16, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dedrick, in view of Khan et al. (hereinafter Khan), US 6,199,054 B1 filed 3/5/1998.**

Regarding dependent claims 7, 15, and 23, Dedrick teaches wherein a user may interactively select from a plurality of content entities to form a customized content object in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches variable content entity pricing in col. 5 lines 23-25. Dedrick does not teach that at least one of the content entities comprises user provided content. Khan does teach wherein a user may selectively add a user-provided content entity subject to price metering in col. 3 lines 61-64. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the user-provided content teaching of Khan into Dedrick to have created the claimed invention. It would have been obvious and desirable to have allowed the user to have provided content to further customize the interactive selection of content entities composing the content object.

Regarding dependent claims 8, 16, and 24, Dedrick teaches wherein the price for user-provided material is determined in a first manner if the content count exceeds a predetermined content count maximum, and is determined in a second manner if the content count does not exceed the predefined maximum in col. 5 lines 23-25.

Response to Arguments

14. Applicant's arguments filed 8/8/2006 have been fully and carefully considered but they are not persuasive.

Applicant argues on page 9 of the amendment that Yonezawa's "shopping basket" is simply an electronic construct that keeps track of the items selected for purchase by the customer, and that the price Yonezawa discloses is for the various items in the shopping basket, not the shopping basket itself.

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The examiner respectfully disagrees, representative claim 1 merely claims in pertinent part:

“determining the cost of a content object having a plurality of content entities”. Without clarification in the instant claims (at least defining a “content object”), the above can be reasonable interpreted as determining the cost of a shopping basket having items for purchase. The cost of the shopping basket is typically the total of the selected items in said basket.

Applicant argues on page 11 of the amendment that Dedrick does not support the assertion:

“...necessarily entails a count of the number of bytes...”. The examiner respectfully disagrees. Dedrick discloses “pay per byte” (col. 4 line 26 - col. 5 line 25).

Another example of where Dedrick explicitly teaches calculating a price using a content count is in col. 7 lines 29-43. Dedrick discloses here that if the cost type associated with the information is per time or per byte/word, the metering server may periodically determine if the balance is being exceeded by the consumption of information. Since the metering server periodically determines the price, it must necessarily count the bytes or words consumed during that period of time to determine the appropriate price to subtract from the balance.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Bashore whose telephone number is (571) 272-4088. The examiner can normally be reached on 11:30am - 8:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Bashore

**WILLIAM BASHORE
PRIMARY EXAMINER**

October 20, 2006